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**DEPARTMENT OF HEALTH
MEDICAL QUALITY ASSURANCE
BOARD OF CHIROPRACTIC MEDICINE**

**MINUTES
GENERAL BUSINESS MEETING**

**Rosen Centre
9840 International Drive
Orlando, Florida 32819**

January 18, 2013

Agenda items are subject to being taken up at anytime during the meeting. Participants in this public meeting should be aware that these proceedings are being recorded and that an audio file of the meeting will be posted to the board's website.

CALL TO ORDER:

Dr. Debra Hoffman, Chairperson, called the meeting to order at 8:04 a.m. Those present for all or part of the meeting included the following:

BOARD MEMBERS:

Debra Hoffman, D.C., Chair
Kevin Fogarty, D.C., Vice-Chair
Ron Wellikoff, D.C.
Ms. Linda Reynolds
Michael Shreeve, D.C.
Michael Mathesie, D.C.

BOARD STAFF:

Sharon Guilford, Acting Board Director
Michele Jackson, Regulatory Supervisor/Consultant

BOARD COUNSEL:

Rachel Clark, Assistant Attorney General
Office of Attorney General

PROSECUTING ATTORNEY:

Tari Rossitto-Van Winkle, Assistant General Counsel

COURT REPORTER:

American Court Reporting – Cindy Green
(407) 896-1813

APPROVAL OF MINUTES – November 2, 2012 Full Board Meeting

Dr. Wellikoff moved to approve the above minutes as presented. The motion was seconded and carried 6/0.

Dr. Fogarty moved to approve a closed session for Dr. Paul Christianson. The

1 **FINAL ORDER ACTIONS:**

2
3 **Motion for Determination of Waiver & Final Order by Hearing not Involving**
4 **Disputed Issues of Material Fact (Default):**

5
6 **Dean E. Draluck, D.C. – Case Number 12-04875**
7 **PCP: Jenkins/Reynolds**
8

9 Dr. Draluck was sworn, present but was not represented by counsel.

10
11 Ms. Rossitto-Van Winkle informed the board that the respondent had violated:

- 12 • Sections 456.072(1)(x), F.S. (5 counts)
13

14 **Dr. Fogarty moved to accept the investigative report and all case materials including all**
15 **confidential and addendum materials, if any, into evidence in these proceedings. The**
16 **motion was seconded and carried 5/0.**
17

18 **Dr. Fogarty moved that the respondent was properly served by certification and failed to**
19 **respond. The motion was seconded and carried 5/0.**
20

21 **Dr. Mathesie moved to adopt the findings of fact into evidence as alleged in the**
22 **administrative complaint. The motion was seconded and carried 5/0.**
23

24 Dr. Draluck addressed the board.
25

26 **Dr. Wellikoff moved to adopt the conclusions of law and find that the respondent was in**
27 **violation as alleged in the administrative complaint. The motion was seconded and carried**
28 **5/0.**
29

30 **Dr. Fogarty moved that the violation constitutes a violation of the Practice Act. The motion**
31 **was seconded and carried 5/0.**
32

33 Ms. Rossitto-Van Winkle recommended the following penalty:
34

- 35 • indefinite suspension until such time as an evaluation by PRN, and PRN determines that
36 the respondent is safe to practice. If contract is required, compliance with all terms of the
37 contract and all PRN treatment recommendations shall be a continuing condition of the
38 Final Order
39 • administrative fine of \$5,000.00, payable prior to lifting the indefinite suspension
40 • reprimand
41 • if the indefinite suspension is longer than the two (2) years, then the respondent shall
42 successfully pass the SPEC and Laws & Rules examinations,
43 • attend two (2) chiropractic board meetings with suspension has been lifted
44 • completion of three (3) hours of continuing education in the areas of risk management in
45 which two (2) hours in laws and rules
46 • probation for a period of two years with a monitor, monitor each month for the first six
47 months
48

49 Discussion ensued.
50

1 **Dr. Shreeve moved to accept the department's recommendation. The motion was seconded**
2 **and carried 5/0.**

3
4 Discussion ensued.

5
6 **Dr. Shreeve moved to assess costs in the amount of \$1,523.82, payable prior to the lifting of**
7 **the indefinite suspension. The motion was seconded and carried 5/0.**

8
9 Dr. Shreeve noted that his current license is delinquent/active and failure to renew his
10 license March 31, 2016, his license will go Null/Void.

11
12 **Xavier M. Escobar, D.C. – Case Number 09-24671**
13 **PCP: Fogarty/Wolfson**

14
15 Dr. Escobar was neither present nor represented by counsel.

16
17 Ms. Rossitto-Van Winkle informed the board that the respondent had violated:

- 18 • Section 456.072(1)(c), F.S.
- 19 • Section 456.072(1)(x), F.S.

20
21 **Ms. Reynolds moved to accept the investigative report and all case materials including all**
22 **confidential and addendum materials, if any, into evidence in these proceedings. The**
23 **motion was seconded and carried 5/0.**

24
25 **Ms. Reynolds moved that the respondent was properly served by certification and failed to**
26 **respond. The motion was seconded and carried 5/0.**

27
28 **Dr. Mathesie moved to adopt the findings of fact into evidence and conclusions of law and**
29 **find that the respondent was in violation as alleged in the administrative complaint. The**
30 **motion was seconded and carried 5/0.**

31
32 **Ms. Reynolds moved that the violation constitutes a violation of the Practice Act. The**
33 **motion was seconded and carried 5/0.**

34
35 Ms. Rossitto-Van Winkle recommended the following penalty:

- 36 • revocation

37
38
39 Discussion ensued.

40
41 **Dr. Shreeve moved to accept the department's recommendation. The motion was seconded**
42 **and carried 5/0.**

43
44 Discussion ensued.

45
46 **Ms. Reynolds moved to assess costs in the amount of \$1,930.65, payable within 30 days from**
47 **the filing of the Final Order. The motion was seconded and carried 5/0.**

48
49 **Donald S. Pritt, Jr., D.C. – Case Number 12-03437**
50 **PCP: Jenkins/Reynolds**

1
2 Dr. Pritt was neither present nor represented by counsel.
3

4 Ms. Rossitto-Van Winkle informed the board that the respondent had violated:

- 5
 - Sections 456.072(1)(k), 460.413(1)(i), and/or 460.413(1)(ff) F.S.

6

7 **Dr. Shreeve moved to accept the investigative report and all case materials including all**
8 **confidential and addendum materials, if any, into evidence in these proceedings. The**
9 **motion was seconded and carried 5/0.**

10
11 **Dr. Fogarty moved that the respondent was properly served by certification and failed to**
12 **respond. The motion was seconded and carried 4/1 with Dr. Mathesie opposed.**
13

14 **Dr. Fogarty moved to adopt the findings of fact into evidence and conclusions of law and**
15 **find that the respondent was in violation as alleged in the administrative complaint. The**
16 **motion was seconded and carried 5/0.**
17

18 **Dr. Fogarty moved that the violation constitutes a violation of the Practice Act. The motion**
19 **was seconded and carried 5/0.**
20

21 Ms. Rossitto-Van Winkle recommended the following penalty:

- 22
 - Reprimand
 - Fine 1000
 - Suspension until appearance before the board.

26

27 Discussion ensued.
28

29 **Dr. Shreeve moved to accept the department's recommendation. The motion was seconded**
30 **and carried 4/1 with Dr. Mathesie opposed.**
31

32 Discussion ensued.
33

34 **Dr. Shreeve moved to assess costs in the amount of \$617.38, payable within 30 days from the**
35 **filing of the Final Order. The motion was seconded and carried 4/1 with Dr. Mathesie**
36 **opposed.**
37

38 **Motion for Final Order by Settlement Agreement:**
39

40 **William T. Labonte, D.C. – Case Number 12-00632**
41 **PCP: Fogarty/Wolfson**
42

43 Dr. Labonte was present, sworn and was represented by Mr. Stephen Masterson, Esq.
44

45 Ms. Rossitto-Van Winkle informed the board that the respondent had violated:

- 46
 - Section 460.413(1)(d), F.S.
 - Section 460.413(1)(m), F.S.

48

49 Ms. Rossitto-Van Winkle advised the board that the settlement agreement contained the
50 following provisions:

- reprimand
- administrative fine of \$10,000, payable in two (2) years in twenty-four (24) monthly installments
- administrative costs of \$3,699.15, payable in two (2) years in twenty-four (24) monthly installments
- restriction on practice requiring all advertising to be reviewed by a board-certified Healthcare Law or Government Administration Law attorney for a period of two (2) years
- probation for a period of one (1) year
- imposed monitoring as defined in the Final Order
- monitor shall submit reports as defined in the Final Order
- tolling provision applies
- completion of six (6) hours continuing education in the areas of record keeping, documentation and coding within one (1) year
- completion of three (3) hours continuing education in the area of risk management in which two (2) hours in the area of laws and rules within one (1) year
- completion of two (2) hours in the area of ethics and boundaries within one (1) year
- attend two (2) chiropractic board meetings within two (2) years

Mr. Masterson addressed the board on behalf of Dr. Labonte. Dr. Labonte also addressed the board.

Discussion ensued.

Ms. Reynolds moved to accept the settlement agreement. The motion was seconded and carried 4/1 with Dr. Shreeve opposed.

Prosecution Report

Ms. Rossitto-Van Winkle provided an overview of the prosecution report.

Ms. Reynolds moved to continue putting special emphasis on prosecuting the older cases (one year and over) and to accept the prosecution report. The motion was seconded and carried 6/0.

PETITION FOR DECLARATORY STATEMENT – Eric S. Hansen, D.C. – 64B2-18.001, F.A.C. – Clarification of RCA performing Manual Therapy

Dr. Hansen was present, sworn but was not represented by counsel.

Ms. Clark stated that the Petition for Declaratory Statement was not in proper format.

Dr. Wellikoff moved to deny Dr. Eric S. Hansen's Petition for Declaratory Statement of Rule 64B2-18.001, F.A.C., for failure to submit in the proper format as referenced in Section 120.1569, F.S. The motion was seconded and carried 6/0.

1 **APPLICANTS PRESENTED FOR BOARD REVIEW:**

2
3 **Rasheem Burt, R.C.A.**

4
5 Mr. Burt was neither present nor represented by counsel.

6
7 Ms. Clark stated that Mr. Burt had applied for licensure as a registered chiropractic
8 assistant. Mr. Burt had answered “Yes” to questions 5 and 11. However, the conviction
9 period was prior to the 15 years as stated in Chapter 456.0635, F.S.

10
11 Discussion ensued.

12
13 **Dr. Mathesie moved to deny Mr. Burt’s application from licensure for failure to**
14 **meet the qualifications in Chapter 456.0635, Florida Statutes. The motion was**
15 **seconded and carried 6/0.**

16
17 **Marlon L. Moritz, D.C.**

18
19 Dr. Moritz was present, sworn but was not represented by counsel. Dr. Judy Rivenbark, with the
20 Professional Resource Network (PRN), was also present and addressed the board.

21
22 Dr. Hoffman provided an overview of the application. She indicated that the applicant had
23 answered “yes” to the health history question and received additional information from the
24 National Practitioner Data Bank was held responsible for a professional liability claim filed and
25 closed resulting in a single lump sum payment of one hundred thousand dollars.

26
27 Dr. Moritz addressed the board and presented an updated evaluation report for consideration.

28
29 Discussion ensued.

30
31 Dr. Rivenbark stated that PRN has a loan assistance program available up to \$2,500.00.

32
33 **Dr. Wellikoff moved to conditionally approve Dr. Moritz’s application for licensure upon a**
34 **PRN evaluation within six (6) months from the filing of Final Order. The motion was**
35 **seconded and carried 6/0.**

36
37 **Adrian D. Nohr, D.C.**

38
39 Dr. Nohr was present, sworn but was not represented by counsel.

40
41 Ms. Clark provided an overview of the application. She indicated that the applicant had answered
42 “yes” to the disciplinary history question and “no” to criminal history questions on the
43 application. The board received documentation from the Kentucky Board and the
44 Commonwealth of Kentucky.

45
46 Dr. Fogarty had concerns with the violations referenced in the application regarding advertising
47 violation, billing, and sexual misconduct issues.

48
49 Dr. Nohr addressed the board.

1
2 Discussion ensued.

3
4 Dr. Nohr withdrew his application for failure to have completed a bachelor's degree.

5
6 **Maree C. Outlaw, R.C.A.**

7
8 Ms. Outlaw was present, sworn and Dr. Rivenbark, with PRN, was also present.

9
10 Dr. Hoffman provided an overview of Ms. Outlaw's application for licensure as a
11 registered chiropractor assistant. Ms. Outlaw had answered "Yes" to questions 2 and 3 of
12 the application.

13
14 Discussion ensued.

15
16 **Dr. Fogarty moved to approve Ms. Outlaw's application for licensure as a registered**
17 **chiropractic assistant. The motion was seconded and carried 6/0.**

18
19 **Lisa M. Suarez, R.C.A.**

20
21 Ms. Suarez was neither present nor represented by counsel.

22
23 **Dr. Shreeve moved to require appearance before the board within the next two**
24 **board meetings. The motion was seconded and carried 6/0.**

25
26 **Shane D. Whiteley, D.C.**

27
28 Dr. Whiteley was present, sworn but was not represented by counsel.

29
30 Ms. Clark provided an overview of the application. She indicated that the applicant had answered
31 "yes" to the disciplinary and criminal history questions. The board also received additional
32 information from the National Practitioner Data Bank that Dr. Whiteley had failed to disclose on
33 his credentialing application action taken by the California State board for unprofessional conduct
34 related to a criminal conviction, failure to disclose this information resulted in non-compliance
35 with ASH PLANS service agreement. Dr. Whiteley indicated a "no" response to the questions
36 related to Section 456.0635(2), F.S.

37
38 Dr. Whiteley addressed the board.

39
40 Discussion ensued.

41
42 **Dr. Mathesie moved to approve Dr. Whiteley's application for licensure. The motion was**
43 **seconded and carried 6/0.**

44
45 **RATIFICATION LISTS:**

46
47 **Chiropractic Physicians**
48 **(Jon Tarr, CH 10758 – Carl E Lavin, CH 10798)**

1
2 **Dr. Fogarty moved to approve the ratification list. The motion was seconded and carried**
3 **6/0.**

4
5 **Certified Chiropractic Physician Assistants**
6 **(Gilson Mortimer, CI 723 – Linette Lee Henry, CI 727)**

7
8 **Ms. Reynolds moved to approve the ratification list. The motion was seconded and carried**
9 **6/0.**

10
11 **Registered Chiropractic Assistants**
12 **(Louisa Cheng Moscow, RCA 10605 – David Mendez, RCA 10929)**

13
14 **Dr. Shreeve moved to approve the ratification list. The motion was seconded and carried**
15 **6/0.**

16
17 **Faculty Certificates**
18 **(Mohsen Radpasand, CFC 14 – Brett Richard Martin, CFC 15)**

19
20 **Ms. Reynolds moved to approve the ratification list. The motion was seconded and carried**
21 **6/0.**

22
23 **DISCUSSION OF ELECTRODIAGNOSTICS – Albert Comey, D.C., DACNB –**
24 **ACA Council on Neurology**

25
26 Dr. Comey was present and addressed the board on Electrodiagnostic training and testing.

27
28 Discussion ensued.

29
30 Dr. Mathesie will be working on language, send to Deborah Loucks and bring back to the
31 Board at the next public Telephone Conference Call meeting.

32
33 **Dr. Shreeve moved to accept. The motion was seconded and carried 6/0.**

34
35
36 **APPROVAL TO PAY MEMBER DUES FOR 2013 – FCLB**

37
38 **Dr. Wellikoff moved to pay the membership dues for 2013 – FCLB and to approve**
39 **Drs. Fogarty and Hoffman to attend the meeting with Dr. Fogarty as the delegate.**
40 **The motion was seconded and carried 6/0.**

41
42 **CHAIR/VICE-CHAIR REPORT:**

43
44 **Future Agenda Items**

- 45
46
 - modify rule to allow PCP members to receive continuing education credits for
47 participating on the panel
48

1 **EXECUTIVE DIRECTOR'S REPORT:**

2
3 **FMA Legislative Recommendations**

4
5 The recommendations from the FMA were discussed.

6
7 **Dr. Hoffman moved to appoint Dr. Wellikoff to draft a letter in response to the**
8 **FMA's recommendations and to lead a Task Force consisting of representatives**
9 **from the FCA, FCS and the board to review the scope of practice of chiropractors,**
10 **registered chiropractic assistants, chiropractic assistants, and certified chiropractic**
11 **physician assistants. The motion was seconded and carried 6/0.**

12
13 The board requested the following dates to hold a TCC:

14
15 February 7 @ 9:00

16 February 14 @ 12:00

17
18 **BOARD COUNSEL'S REPORT:**

19
20 **Rules Status Report**

21
22 (See Attachment B)

23
24 Ms. Clark provided an overview of the Rules Status Report.

- 25
26 • **64B2-16.010**

27
28 **Dr. Fogarty moved to file a Notice for Rule Development. The motion was seconded**
29 **and carried 5/1 with Dr. Shreeve opposed.**

30
31 **Dr. Fogarty moved to approve the language as presented. The motion failed for**
32 **lack of second.**

33
34 Ms. Clark stated that she will inform Ms. Loucks to draft language and present the draft
35 before the board at the next meeting.

36
37 **COMMITTEE REPORTS:**

38
39 **Budget – Ms. Reynolds**

40
41 **Revenue Report**

42 **Expenditures by Function Ending September 30, 2012**

43 **Cash Balance Report Ending September 30, 2012**

44 **Total expenditures (Direct and Allocated) by Board Ending**
45 **September 30, 2012**

46 **Allocations to Boards by Source Organization and Category**
47 **Ending September 30, 2012**

1
2 Ms. Reynolds provided an overview of the budget reports.

3
4 **CCPA – Dr. Shreeve**

5
6 Dr. Shreeve stated that there is a school in Florida that was offering a chiropractic
7 physician assistant course program.

8
9 **Continuing Education – Dr. Wellikoff**

10
11 **Providers and Courses Approved by CE Committee**

12
13 **Dr. Mathesie moved to approve the ratification list as presented. The motion was seconded**
14 **and carried 6/0.**

15
16 **Life Chiropractic College – West – Recommended Denial**
17 **(Subluxation Neurology and Components of Optimal Health)**

18
19 Dr. Wellikoff provided an overview of the continuing education application.

20
21 Discussion ensued.

22
23 **Dr. Wellikoff moved to approve the above course as presented. The motion was seconded**
24 **and carried 6/0.**

25
26 **New York Chiropractic College – Recommended Board Review**
27 **(Professional Disciplinary Cases & Professionals Helping Impaired**
28 **Professionals)**

29
30 Dr. Wellikoff provided an overview of the continuing education application.

31
32 Discussion ensued.

33
34 **Dr. Shreeve moved to deny the above course as presented for failure to meet the educational**
35 **requirements. The motion was seconded and carried 6/0.**

36
37 **Credentials – Dr. Wellikoff**

38
39 No report.

40
41 **Disciplinary Compliance – Dr. Mathesie**

42
43 **Dennis C. Nobbe, D.C. – Case Number 09-07007 – Required Appearance**

44
45 Dr. Nobbe was present, sworn and addressed the board.

46
47 Dr. Mathesie provided an overview of the report provided by the compliance officer.

1
2 No action necessary.
3

4 **The board requested staff to contact Ms. Melody Moore, with CSU, on why the**
5 **national board was not given for special considerations when taking the**
6 **examination. Also, inform Ms. Moore to credit Dr. Nobbe for all the meetings he**
7 **had attended.**
8

9 **Patrick L. Fenelus, D.C. – Case Number 11-14497 – Request to**
10 **Appear to Modify Monitoring Terms of Final Order**
11

12 The request was pulled from the agenda.
13

14 **Fred H. Quintana, D.C. – Case Number 07-15322 – Required Appearance**
15

16 Dr. Quintana was present, sworn and addressed the board.
17

18 Dr. Mathesie provided an overview of the report provided by the compliance officer.
19

20 No action necessary.
21

22 **Johnathan L. Wagner, D.C. – Case Number 09-24849 –**
23 **Termination of Probation**
24

25 Dr. Wagner was not present but was represented by Mr. Edwin Bayo, Esq.
26

27 Discussion ensued.
28

29 **Dr. Mathesie moved to approve the request for termination of probation as**
30 **presented. The motion was seconded and carried 6/0.**
31

32 **Examination – Dr. Hoffman**
33

34 No report.
35

36 **Legislation – Dr. Fogarty**
37

38 **FYI - Legislative Alert**
39

40 No report.
41

42 **Probable Cause – Ms. Reynolds/Dr. Fogarty/Dr. Shreeve**
43

44 **Stats**
45

46 Information only.
47

1 **Rules – Dr. Fogarty**

2
3 **Rule 64B2-11.001, F.A.C. – Application for Licensure Examination**

4
5 **Dr. Fogarty moved to adopt the language as presented and the application in Rule**
6 **64B2-11.001, F.A.C. The motion was seconded and carried 6/0.**

7 .
8 **Dr. Wellikoff moved that the proposed rule would not have any adverse impacts on small**
9 **businesses and would not be likely to directly or indirectly increase regulatory costs to any**
10 **entity (including government) in excess of \$200,000 in the aggregate in Florida within 1 year**
11 **after the implementation of the rule. The motion was seconded and carried 6/0.**

12
13 **Unlicensed Activity - Vacant**

14
15 No report.

16
17 **NEXT MEETING DATE – April 5th – Orlando**

18
19 **ADJOURNMENT:**

20
21 The board adjourned at 1:45 p.m.
22